

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE CONDITION AND)	
MANAGEMENT OF BIG VALLEY SANITATION,)	CASE NO. 2009-00378
INC. AND WOODLAND ACRES SANITATION, INC.)	
SEWAGE TREATMENT FACILITIES)	

ORDER

This matter is before the Commission upon the written request of the Energy and Environment Cabinet ("the Cabinet") to determine whether the sewage collection and treatment facilities known as Big Valley Mobile Home Park and Woodland Acres Mobile Home Park have been abandoned and should be placed under the control and responsibility of a receiver.

Big Valley Sanitation, Inc., a Kentucky corporation organized pursuant to KRS Chapter 271A in 1999,¹ owns sewage collection and treatment facilities that are located in Bullitt County, Kentucky² and serve the Big Valley Mobile Home Park. The

¹ See <http://apps.sos.ky.gov/business/obdb/%28S%28g3u2nibyt3dahk55n2w5pk55%29%29/showentity.aspx?id=0477859&ct=09&cs=99999> (last visited Nov. 2, 2009). The Kentucky Secretary of State administratively dissolved Big Valley Sanitation on November 1, 2000 for failure to file its annual report. See <http://apps.sos.ky.gov/corpscans/59/0477859-09-99999-20001101-ADS-1224439-PU.tif> (last visited Nov. 2, 2009).

² The treatment facility is located at a latitude of 38.032948 degrees and a longitude of -85.731258. See http://oaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110009937355 (last visited Nov. 2, 2009).

Commission has previously determined that these facilities are subject to the jurisdiction and regulation of the Commission.³

Woodland Acres Sanitation, Inc., a Kentucky corporation organized pursuant to KRS Chapter 271 in 1984,⁴ owns sewage collection and treatment facilities that serve the Woodland Acres Subdivision in Bullitt County, Kentucky.⁵ The Commission has previously determined that these facilities are subject to our jurisdiction and regulation.⁶ The records of the Office of Secretary of State and of the Commission indicate that John L. Ford was the sole shareholder and officer of both corporations.⁷ Mr. Ford died on October 9, 2008.⁸

On September 18, 2009, the Cabinet submitted a written request that the Commission initiate a proceeding pursuant to KRS 278.021 to consider the appointment

³ Case No. 1994-00451, *Eugene Macgruder D/B/A Big Valley Mobile Home Subdivision Sewage Treatment Plant – Investigation Into the Condition and Jurisdictional Status of Sewage Utility Facilities* (Ky. PSC May 9, 1995); Case No. 1999-319, *The Application for Approval to Acquire Ownership of the Sewage Treatment Facilities Located in the Big Valley Mobile Home Park, for a Certificate of Public Convenience and Necessity to Make Plant Improvements, and for Approval of Rates* (Ky. PSC Feb. 11, 2000).

⁴ See <http://apps.sos.ky.gov/business/obdb/%28S%28mlgzie2pdmxvomvvgfklqro55%29%29/showntentity.aspx?id=0186513&ct=09&cs=99999> (last visited Nov. 2, 2009). The Kentucky Secretary of State administratively dissolved Woodland Acres Sanitation on November 1, 2000 for failure to file its annual report. See <http://apps.sos.ky.gov/corpscans/13/0186513-09-99999-20001101-ADS-1221383-PU.tif> (last visited Nov. 2, 2009).

⁵ The treatment facility is located at 38.008333 degrees latitude and -85.729722 longitude. See http://oaspub.epa.gov/enviro/fii_query_dtl.disp_program_facility?pgm_sys_id_in=KY0091600&pgm_sys_acrnm_in=PCS (last visited Nov. 2, 2009).

⁶ Case No. 8989, *Application of Woodland Acres Sanitation, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a Sewage Treatment Plant In Bullitt County, Kentucky for Approval of Initial Rates and for Approval of Financing* (Ky. PSC Aug. 31, 1984).

⁷ Commission records do not reveal how Mr. Ford acquired control of Woodland Acres Sanitation. He first appears as an officer of Woodland Acres Sanitation in the utility's annual report to the Commission for 1996.

⁸ *Obituaries*, Courier Journal, Oct. 11, 2008, at B6.

of a receiver on a permanent basis.⁹ In its request, it notes that since the 1980s the sewage treatment plants have experienced a series of environmental violations, including improper operation, failure to report sewage overflows and discharges, and water pollution, and that the sewage treatment plants' present conditions had recently worsened. The Cabinet further states that, since Mr. Ford's death, the plants lack a certified wastewater operator to operate the plants¹⁰ and the executor of Mr. Ford's estate has shown no interest in operating either plant. The appointment of a receiver, the Cabinet asserts, is necessary for improved operations, a cleaner environment, and a transition of ownership to persons or entities capable of properly operating the sewage treatment plants.

The Commission's jurisdiction generally extends to the regulation of rates and services of utilities.¹¹ Within the scope of this jurisdiction is the authority to seek the appointment of a receiver for "any utility that is abandoned."¹² "Abandoned," however, is not defined by the statute. In construing the statute, the Commission must give effect to the intent of the legislature. See Lewis v. Jackson Energy Cooperative Corporation, 189 S.W.3d 87 (Ky. 2005).

Based upon the foregoing, the Commission finds that an investigation should be commenced into the current condition of ownership and management of the sewage treatment facilities with a special focus on whether these facilities have been

⁹ Letter from Sandy Gruzesky, Director, Division of Water, to Jeff R. Derouen, Executive Director, Public Service Commission (Sep. 17, 2009).

¹⁰ 401 KAR 5:010 requires a wastewater treatment plant to be under the primary responsibility of a certified operator.

¹¹ KRS 278.040(2).

¹² KRS 278.021.

abandoned. We further find that, to ensure a complete and thorough investigation, all interested persons should be made parties to this proceeding and that each party, at the outset of this proceeding, should provide the Commission with (1) a brief and concise statement setting forth all issues that this proceeding should address and all information related to the operation and ownership of the sewage treatment facilities that it believes is relevant to this proceeding and (2) a proposed procedural schedule.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether the sewage treatment facilities owned by Big Valley Sanitation, Inc. and Woodland Acres Sanitation, Inc. have been abandoned and whether, if such abandonment has occurred, they should be placed under the control and responsibility of a receiver pursuant to KRS 278.021.

2. The following persons are made parties to this proceeding: Big Valley Sanitation, Inc.; Woodland Acres Sanitation, Inc.; Charles V. Gibbons, executor of the estate of John L. Ford;¹³ the Cabinet; and the Attorney General.¹⁴

3. Within 10 days of the date of this Order, each party to this proceeding shall file with the Commission:

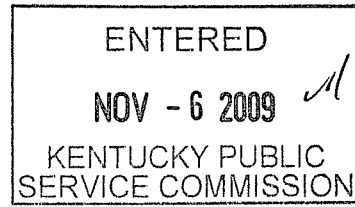
a. A brief and concise statement setting forth all issues that the Commission should consider in this proceeding and all information related to the operation and ownership of the sewage treatment facilities that it believes is relevant to this proceeding; and

b. A proposed procedural schedule.

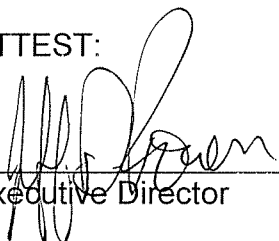
¹³ See *In Re Estate of John L. Ford*, No. 08-P-00362 (Bullitt District Ct. Ky. Nov. 7, 2008).

¹⁴ The Attorney General is made a party to this proceeding based upon his statutory role to appear before regulatory bodies to represent and be heard on behalf of consumers' interests. KRS 367.150(8).

By the Commission



ATTEST:



Executive Director

